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CHARLES L. MOORE, CLERK

FOR 400 AND 444

In the Supreme Court of the United States

Autumn Term 1940

Consolidated Rock Products Co. et al. Complain-
ing The Preferred Stockholders Committee
of Consolidated Rock Products Co. Defendants

E. B. BARNES, JR.

E. B. BARNES, JR. Complainant The Union Rock
Company Defendants Preferred Committee
et al. Defendants

E. B. BARNES, JR.

TO THE COURT FOR THE REASON THAT THE UNION
ROCK COMPANY HAS BEEN AN ACTING FOR THE STATE
OF NEW YORK

THE UNION ROCK COMPANY HAS BEEN AN ACTING
FOR THE STATE OF NEW YORK

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In the Supreme Court of the United States

OCTOBER TERM, 1940

Nos. 400, 444

CONSOLIDATED ROCK PRODUCTS CO. ET AL., COMPOS-
ING THE PREFERRED STOCKHOLDERS COMMITTEE
OF CONSOLIDATED ROCK PRODUCTS CO., PETITIONERS

v.

E. BLOIS DU BOIS

F. B. BADGLEY ET AL., COMPOSING THE UNION ROCK
COMPANY, BONDHOLDERS' PROTECTIVE COMMITTEE
ET AL., PETITIONERS

v.

E. BLOIS DU BOIS

ON PETITIONS FOR WRITS OF CERTIORARI TO THE UNITED
STATES CIRCUIT COURT OF APPEALS FOR THE NINTH
CIRCUIT

MEMORANDUM FOR THE INTERSTATE COMMERCE
COMMISSION AS AMICUS CURIAE

The Interstate Commerce Commission, as *amicus curiae*, joins with the Securities and Exchange Commission in urging this Court to grant the petition for a writ of certiorari in No. 444 and to grant

the petition for a writ of certiorari in No. 400 to the extent that it presents the same question as that presented in No. 444. The interest of the Interstate Commerce Commission arises from the fact that under subdivision (d) of Section 77 of the Bankruptcy Act, the Commission is charged with the duty of approving a plan of reorganization (or refusing to approve any plan of reorganization) for railroad corporations which have filed petitions to reorganize under Section 77. Section 77 (e) provides that the plan must be "fair and equitable." The question of whether the decision in *Case v. Los Angeles Lumber Co., Ltd.*, 308 U. S. 106, requires that a plan of reorganization, to be fair and equitable, must preserve the priorities of separate lienors against the particular assets securing their respective claims is of peculiar importance in railroad reorganizations because of the widespread use of divisional mortgages as a method of railroad financing, and because of the great public interest in the unified and continued operation of railroad properties.

Respectfully submitted.

FRANCIS BIDDLE,
Solicitor General.

DAVID W. KNOWLTON,
Chief Counsel,
Interstate Commerce Commission.

OCTOBER 1940.

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